

FAIR EMPLOYMENT & HOUSING COMMISSION

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MINUTES 482nd COMMISSION MEETING

March 30, 2010
Hiram Johnson State Building
455 Golden Gate Avenue, Tenth Floor D.I.R. Conference Room
San Francisco, California

PRESENT:

Chairman George Woolverton; Vice-Chair Patricia Perez; Commissioners Dave Carothers, Stuart Leviton, and Linda Ng; Commission staff Ann Noel, Joan Herrington and Cynthia Jones and Commission Law Student Extern Chris Banks; Department of Fair Employment and Housing Chief Deputy Director for Programs Annmarie Billotti; Deputy Attorney General Kathy Mikkelsen and members of the public: Susan Skamser, ADA Coordinator, Contra Costa County.

OPEN SESSION

Chairman Woolverton moved, Commissioner Dave Carothers seconded, and the Commission voted 5:0 to open the meeting at 10:10 a.m. [10-12]

REVIEW OF AGENDA

The Commission accepted the Agenda as submitted.

REVIEW OF THE MINUTES

Chairman Woolverton moved, Commissioner Carothers seconded, and the Commission unanimously voted to adopt the Minutes and Transactions of the 481st Commission meeting. [10-13]

DEPARTMENT'S REPORT (10:11 a.m.)

DFEH Chief Deputy Director for Programs Annmarie Billotti reported that the DFEH is currently accepting public comments on its procedural regulations. The DFEH will hold a public hearing about its regulations on May 26, 2010 in San Francisco. The Commission told Ms. Billotti that Commissioner Stuart Leviton will attend the hearing and provide the DFEH with comments on behalf of the Commission.

The DFEH and the State Bar's Fair Housing/Public Accommodation's subsection is sponsoring a seminar on disability discrimination in fair housing on April 16, 2010 at Southwestern Law School in Los Angeles. Chairman Woolverton and ELAS Noel will both attend. On behalf of the

Schwarzenegger administration, Chairman Woolverton will accept a posthumous award for Eunice Schriver for her work with persons with disabilities.

REGULATIONS (10:37 a.m.)

ELAS Noel reported on the current status of the Commission's regulatory projects in the areas of pregnancy, disability and housing. Commissioners are working with staff on each regulatory project.

Pregnancy Regulations: The Commission set a schedule for public hearings in Los Angeles and San Francisco to hear public comments on its proposed amended pregnancy regulations as follows:

Tuesday, June 1, 2010, 10 a.m.

Ronald Reagan State Office Building
300 South Spring Street
Ground Floor Auditorium
Los Angeles, California

Wednesday, June 2, 2010, 10 a.m.

Hiram Johnson State Office Building
455 Golden Gate Avenue
Auditorium, Lower Level
San Francisco, California

The public comment period will run from **April 16, 2010 to June 2, 2010.**

Disability Regulations: The Commission reviewed its disability regulations and deferred further changes to its Disability Regulations subcommittee. Commissioner Dave Carothers volunteered to join the subcommittee. The Commission will consider a final draft for adoption at its June 2, 2010 Commission meeting.

Housing Regulations: The Commission's housing subcommittee will next meet April 30, 2010 to discuss further changes to its familial status regulations.

EXECUTIVE AND LEGAL AFFAIRS SECRETARY'S (ELAS) ACTIVITY REPORT
(11:04 a.m.)

ELAS Noel reported on the following items:

- 1. UCLA-Rand Report and February 23, 2010 Legislative Oversight Hearing.** The Commission discussed the UCLA-Rand Center for Law and Social Policy's report on "California Employment Discrimination Law and Its Enforcement: The Fair Employment and Housing Act at 50" and the February 23, 2010 oversight hearing held by the Joint Committee of the California Senate and Assembly to discuss with the DFEH, the FEHC and stakeholders the recommendations of the report. The DFEH and the Commission have been asked to provide information about mediation settlement amounts both pre- and post-accusation to the Legislature by April 6, 2010.
- 2. Subcommittee on Commission Planning.** The Commission reviewed and adopted the 2010 work plan proposed by its Subcommittee on Commission Planning.

3. **Incidents of Intolerance at UCSD & UC Davis.** The Commission discussed incidents of intolerance at various University of California campuses. The Community Relations Service (CRS) of the U.S. Department of Justice is sharing information with the Commission about the incidents. CRS reports that the U.C. administration has done a good job at each campus working with students to address problems of intolerance.
4. **Office Move.** ELAS Noel reported that the Commission is on track to move this summer to new offices in downtown Oakland at the Elihu Harris state building there, in space adjoining the DFEH's Oakland offices. The FEHC and the DFEH are awaiting the sale of the building before doing the necessary buildout to allow the Commission to move into space previously occupied by the DFEH.
5. **Other Items.** ELAS Noel directed the Commission to her ELAS Activity Report for case adjudication statistics, outreach and Commissioner training.

ATTORNEY GENERAL'S REPORT (11:50 a.m.)

Deputy Attorney General (DAG) Kathy Mikkelson deferred a report on the work of the Civil Rights Enforcement Section (CRES) of the Attorney General's (AG) Office.

PUBLIC COMMENTS (11:51 a.m.)

The Commission welcomed Susan Skamser, ADA Coordinator, Contra Costa County, telling her that comments that she had previously submitted about the Commission's draft disability regulations had been quite useful. Ms. Skamser said that she would submit additional comments to the current draft of disability regulations to Commission staff.

Chairman Woolverton moved, Commissioner Carothers seconded, and the Commission voted unanimously 5:0 to end Open Session and to enter Closed Session. [10-14]

The Commission entered Closed Session at 12:05 p.m.

CLOSED SESSION (11:52 a.m.)

Only the Commissioners, Commission staff, and Attorney General's staff were present.

The Commission discussed writs, hearings and litigation and deliberated on pending cases.

Writs and Appeals

Deputy Attorney General Kathy Mikkelson and ELAS Noel reported on the status of the following cases.

- (1) DFEH v. Terra Linda Farms (Santillan/Rivas)

Mikkelson reported that on February 16, 2010, respondents filed an appeal of the Superior Court's decision, which had upheld the Commission's decision, but ordered the Commission to revise

its decision to reduce that award by \$3,500, the sum that Rivas received as a settlement from her joint employer, Green Valley Ag. The Commission will defend its decision but not file a cross-appeal.

Administrative Adjudication: Pending Decisions, Hearings Completed

(1) DFEH v. Avis Budget Group (Reed)

Chairman Woolverton moved, Commissioner Carothers seconded and the Commission voted 5:0 to issue a Notice of Opportunity for Further Argument to the parties in this case. [10-15]

ADJOURNMENT

Chairman Woolverton moved, Commissioner Leviton seconded, and the Commission voted 5:0 to adjourn the meeting. [10-16]

The Commission adjourned its meeting at 12:47 p.m.

Date: March 30, 2010

GEORGE WOOLVERTON

Chairman

ANN M. NOEL

Executive and Legal Affairs Secretary

**REPORT OF TRANSACTIONS
OF THE 482nd COMMISSION MEETING
March 30, 2010
San Francisco, California**

THE COMMISSION AT THIS MEETING TOOK THE FOLLOWING ACTIONS:

- 10-12 Voted 5:0 to call the meeting to order.
- 10-13 Adopted the Minutes and Transactions of the 481st Commission meeting.
- 10-14 Voted to end Open Session and begin Closed Session.
- 10-15 Voted 5:0 to issue a Notice of Opportunity for Further Argument in DFEH v. Avis
Budget Group (Reed).
- 10-16 Voted 5:0 to adjourn the meeting.

Prepared By

Ann M. Noel
Executive and Legal Affairs Secretary